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at a much later time; for example, actions for slander (pp. 13, 17, 30, 33, 71, 84, 85); an action strongly suggestive of *Lumley v. Gye* (p. 97); action against a surety upon a simple contract (p. 117); actions by a surety against his principal (pp. 6, 48); actions for breach of contract in not shoeing a horse after entering upon the work (p. 22), or against a barber for discontinuing the treatment of the plaintiff's head (p. 36) or for not building a house of the stipulated materials, (p. 104). A breach of agreement is called a trespass on p. 49. The word covenant (*convencio*) is frequently employed, in accordance with medieval usage, in the sense of oral or unsealed agreement. Usually the judgment for the plaintiff is *in rem*, that he recover. But there are several cases (pp. 17, 22, 24, 30, 37, 48, 59) in which the judgment is *in personam*, that the defendant make satisfaction to the plaintiff. We shall hope soon to see the second volume. The material of the two volumes, supplemented by the learned editor's discussion of the law merchant, will surely be a valuable contribution to our knowledge of English legal history.

J. B. A.

THE LAW OF TENDER. By George Lucas Beynon Harris. London: Butterworth and Co. 1908. pp. lxx, 415. 8vo.

As the author points out in his introductory remarks, the law of tender is adjective in its nature, accessorial to the law of obligation. As the obligations of contract became abstruse, its tenacious attendant developed correspondingly, so that the cases involving tender present a department of legal learning inevitably technical in the highest degree. Of the value of such a special book as this there can be no doubt, but it would be incomprehensible to one not intimately familiar with the substantive law upon which it depends. As to the ordinary rules stated in the chapter headings, there can be no doubt,—that tender must be fully declared and insisted upon, that it must be in lawful coin actually produced, that it must be unconditional and without reservations, that it must be kept good and produced in court, that it must be made at the right time and appropriate place, that it must be made by a proper person to a proper person. But to know what is a right time and who is a proper person one must know the law of the particular obligation in question so thoroughly that he might almost deduce the actual law of tender for his case without consulting the special cases on tender. Still, as our law is at best an imperfect science, no lawyer would be safe in trusting to his own deductions, but should have recourse to some authoritative source. It would be well if we had for our American law such an excellent special treatise as Mr. Harris has made from the English decisions.

B. W.

THE JUSTICE OF THE MEXICAN WAR. By Charles H. Owen. New York and London: G. P. Putnam's Sons. 1908. pp. viii, 291. 8vo.

"The Justice of the Mexican War" cannot be considered a law book, nor is it a history; for it does not even attempt to bring men and events of earlier times to life before the reader. It deals rather with cold facts simply in their bearing upon the justice of the Mexican War. In so weighing the right and wrong of international relations it may, not inappropriately, be reviewed in this magazine. Mr. Owen's purpose is to disprove the truth of the very general statement of historians that the Mexican War was a mere trick to steal or perhaps an open stealing of territory from a weaker nation, in order to gain more states for slavery and a port on the Pacific. His arguments may be very briefly indicated as follows: (a) He summarizes the American character and American ideas of civil rights of the time just before the Mexican War; the character of the American settlers in Texas and their relations with people in the United States; the Mexican ideas of civil rights and particularly their control of the Texan territory. From these facts he finds that intervention by the United States in the case of Texas was far more clearly justified than in the case of Cuba, where

our intervention, according to a quotation from Professor Woolsey, was justified "by the burden of neutrality, the dictates of our commercial interests, and the call of humanity." We may not all agree that intervention in Cuba was justified; but expansion, or imperialism as it is now called, which aims to give better government to new territory acquired, whether wise or not, is at least less immoral than conquest to spread slavery. So far the argument applies more strongly to Texas than to the comparatively unsettled California. (b) But there is still another motive advanced for the war. Mr. Owen assembles a rather formidable array of authorities to show that there was real danger, not a mere convenient fear that Texas and California would be virtually controlled by England or France, or at least, Mr. Owen maintains Americans would have had many reasons honestly to believe that to be the case. Since Mexico could not control these territories, intervention by the United States was therefore a defense of the Monroe Doctrine, and when the Monroe Doctrine is applied to territory as near and as important, to that of the United States as Texas or California was, it can hardly be called highly immoral. (c) And besides these two constructive arguments furnishing motives for the Mexican War which may have been at least honest, Mr. Owen collects some very interesting facts which tend to show the negative of the general statement that United States officers sent overbearing messages to Texas, acted dishonestly with regard to boundaries, and did other things which lend color to the theory that the war was forced on Mexico to gain more slave territory. Mr. Owen's contention that great historians have in these cases followed theory rather than facts has more force than can be attributed simply to the desire of the American readers to believe that his country was not to be despised.

Not all of Mr. Owen's points and suggestions can be noticed here, nor any of them carefully weighed. But there is space for a little broader criticism of his work. American history is not yet so old that we can be sure that we have an impersonal point of view. In another case it was left for John Fiske to show that among the Tories at the time of the Revolution there were many honorable and heroic men. And that the patriots fought for independence against such men, rather than scoundrels only, is no discredit to the patriots. So in the present case it may be that those who tried to spread slavery were not all dishonest and that in the Mexican War they acted from honest motives. If this volume prompts some historian to weigh all the evidence and give a true, unbiased history of the Mexican War times, it will have fulfilled, as the author says on his closing page, one of its most important purposes. P. K.

POWERS OF THE AMERICAN PEOPLE. By Masuji Miyakawa. Second edition. New York: The Baker & Taylor Company. 1908. pp. xiv, 431. 8vo.

The first edition has been revised and enlarged. Covering such a wide field of investigation, the author does not profess within the limited space to treat his subject exhaustively as does Bryce in "The American Commonwealth," but in presenting a comprehensive study of the Constitution and its workings he shows a remarkable insight into American institutions. He considers separately the powers of the American people, Congress, the President and the courts. Enough constitutional history is gone into to show the origin of the particular power treated, and the substance of the decisions, with apt quotations, construing it is set forth. The contrast with similar powers in the governments of Europe and Japan makes the work particularly instructive for foreign readers, especially the Japanese. The book is more than a survey of American constitutional government; it presents a general picture of the American nation. In many respects this is a picture of what we ought to be rather than what we are. The scholarly and interesting treatment should appeal not only to the student of government and law but to the general reader.

In the appendices are printed the Magna Charta, Constitution of Japan, Declaration of Independence, Articles of Confederation, and Constitution of the United States.

R. T. H.